

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 81-182-T - ORDER NO. 82- 157 ✓
March 12, 1982

IN RE: Application of Low Country Adventures, Ltd.)	ORDER APPROVING
Post Office Box 4942, Hilton Head Island,)	APPLICATION FOR
South Carolina 29938, for a Class C Char-)	CERTIFICATE
ter Certificate of Public Convenience and)	
Necessity.	

I.

INTRODUCTION

This matter comes before the South Carolina Public Service Commission (hereinafter "the Commission") by way of the Application filed on May 15, 1981 by Low Country Adventures, Ltd. (hereinafter "the Applicant") whereby the Applicant seeks certain relief in the nature of a Class C Certificate of Public Convenience and Necessity to render motor carrier transportation for passengers as follows:

BETWEEN POINTS AND PLACES ON HILTON HEAD ISLAND,
SOUTH CAROLINA AND BETWEEN POINTS AND PLACES
ON HILTON HEAD ISLAND, SOUTH CAROLINA, AND POINTS
AND PLACES IN SOUTH CAROLINA.

Subsequent to receipt of the instant Application, the Commission's Executive Director instructed the Applicant to cause to be published a prepared Notice of Filing, one time, in newspapers of general circulation in each of the following cities: Charleston, Columbia, Florence, Greenville, Greenwood, Myrtle Beach, Rock Hill and Spartanburg.¹ The purpose of the Notice of Filing was to provide information denotative of the nature of the Application and to stipulate the manner and time in which all interested parties desiring participation in the scheduled proceeding should file the appropriate pleading.

The Applicant furnished the Commission with affidavits of publication evidencing compliance with the publication requirement.

¹The Notice of Filing was likewise published in the State Register, Volume 5, Issue No. 13, dated June 26, 1981.

A Petition to Intervene was filed by Ann Parker's Island Tour, Inc. (hereinafter "the Intervenor").

Subsequently, pursuant to notice duly provided in accordance with the rules and regulations of the Commission and the laws of this State, a public hearing was held before the Commission, Chairman Rudolph Mitchell presiding. Frank A. Graham, Jr., Esquire, represented the Applicant; A. R. Grant Morehouse, Esquire, represented the Intervenor; and, Arthur G. Fusco, Esquire, General Counsel, represented the Commission and the Commission Staff.

II.

THE APPLICANT

Charlene Barrett, President of the Applicant, testified that the Company was chartered on January 10, 1980 and is actively engaged in the tour and tour brokerage business. (For a description of Applicant's ICC operating authority see Hearing Exhibit No. 1). Ray Westmoreland serves as Secretary-Treasurer of the Company.

Ms. Barrett testified that the Applicant operates an 11 passenger bus, employs part time tour guides, and, in general runs "A to Z charter operations". See, Hearing Exhibit No. 2.

Applicant previously managed its intra-state charters through a lease arrangement with a carrier certificated by this Commission.

Ms. Barrett believes her services to be unique and stated that the company will lease two additional busses upon approval of the authority requested herein.

Ms. Barrett sponsored Hearing Exhibits Nos. 3-7 which essentially are described as follows:

- (1) three, type of inquiries for the proposed service;
- (2) four, operations;
- (3) five, eight letters complimentary previous service;
- (4) six, financial statement;
- (5) seven, inquiries and tours performed for Charleston and Beaufort from Hilton Head (approximately 477).

Doris Zirk, Director of Guest Services for the Hyatt Hotel on Hilton Head Island, testified in support of the Application. The Hyatt guests require and request numerous charter trips and tours and on behalf of the hotel it is Ms. Zirk's responsibility to see that these needs are met. Ms. Zirk testified that she "had them [the guests] want to go everywhere".

The busy tourist season on Hilton Head is from approximately March through November of each year. Ms. Zirk stated that she used Applicant's services about two days a week during the season and was not solicited by any other charter carriers. She specifically stated that she believed the Intervenor's operation to be only an "Island" service.

III.

THE INTERVENOR

Ms. Ann Parker, President of Ann Parker's Island Tour, Inc., testified in opposition to the Application. The Intervenor presented two witnesses in support of its position: (1) Sharon K. Jarrett, property management Lighthouse Island Vacations; (2) Thomas Durston, General Manager, Airport Transportation Services, Inc., and Palmetto Transportation Services, Inc.²

Generally, the Intervenor complained of the possibility of loss of revenues from its business and attempted to persuade the Commission that there is not a need for the Applicant's requested service. See, Hearing Exhibits 8 and 9.

²The Commission notes with interest its recent decision, after complaint from Ann Parker's Island Tour, Inc., requiring Airport Transportation Service, Inc. to cease and desist its illegal activities soliciting, advertising, conducting tours and engaging in the operation of charter authority. Order No. 82-32, dated January 20, 1982, Docket No. 81-207-T.

IV.

FINDINGS AND CONCLUSIONS

The Commission will not grant a certificate for motor carrier services unless there exists a "public convenience and necessity" for the proposed service and the Applicant is fit, willing and able to appropriately perform the proposed service. R.103-134 of the Commission's Rules and Regulations for Motor Carriers (Vol. 26, S. C. Code Ann., 1976).

What constitutes public convenience and necessity must fundamentally have reference to the facts and circumstances of each given case as it arises. 60 C.J.S. Motor Vehicles, §90 (10). In determining whether a proposed service is required by public convenience and necessity, the three principal questions considered by the Commission are as follows: (1) would the new operation serve a useful public purpose responsive to a public demand or need; (2) can this public purpose be served as well by existing carriers; and, (3) could it be served by the Applicant without endangering the operations of existing carriers contrary to the public interest.

Based upon a full record of the proceedings, and all of the relevant evidence presented, it is the opinion of the Commission that the Applicant has met the burden of proving by the substantial evidence of the whole record:

1. That the Applicant is fit, willing and able to appropriately perform the proposed services;
2. That public convenience and necessity are not already being reasonably served in the territory by existing authorized service.

The testimony of the Applicant's supporting witness evinced a need for charter service which she found to be unfulfilled by existing carriers. Furthermore, the testimony

supports a grant of the full scope of authority requested. We do not feel as though the grant of authority herein will endanger or impair the operations of the intervenor contrary to the public interest.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That the Application of Low Country Adventures, Ltd., Post Office Box 4942, Hilton Head Island, South Carolina 29938 for a Class C Charter Certificate of Public Convenience and Necessity to provide passenger transportation service as follows:

BETWEEN POINTS AND PLACES ON HILTON HEAD ISLAND, SOUTH CAROLINA, AND BETWEEN POINTS AND PLACES ON HILTON HEAD ISLAND, SOUTH CAROLINA AND POINTS AND PLACES IN SOUTH CAROLINA.

be, and hereby is, approved.

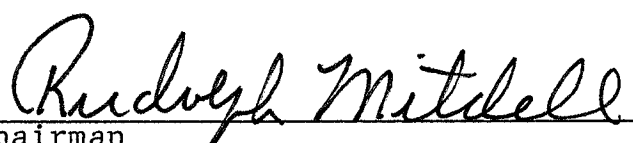
2. That Low Country Adventures, Ltd., file the proper license fees and other information required by S. C. Code Ann., §§58-23-10, et seq. (1976), and by the applicable provisions of R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers (Vol. 26, S. C. Code Ann., 1976), within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

3. That upon compliance with S. C. Code Ann., §§58-23-10 et seq. (1976) and the applicable provisions of R.103-100 through R.103-280 of the Commission's Rules and Regulations for Motor Carriers (Vol. 26, S. C. Code Ann., 1976), a Certificate shall be issued to Low Country Adventures, Ltd. authorizing the motor carrier services granted herein.

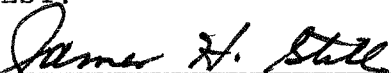
4. That prior to compliance with such requirements and receipt of a certificate, the motor carrier services authorized herein shall not be provided.

5. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director
(SEAL)